

ORIGINAL

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

In the Matter of )  
 )  
Amendment of Section 73.202(b) )  
of the Commission's Rules )  
Table of Allotments )  
FM Broadcast Stations )  
(Lincoln, Illinois) )

MM Docket No. 92-204

RECEIVED

OCT 26 1992

To: Chief, Allocations Branch,  
Policy and Rules Division  
Mass Media Bureau

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

COMMENTS AND COUNTERPROPOSAL

Livingston County Broadcasters, Inc. ("Livingston"), licensee of FM station WJEZ(FM), Pontiac, Illinois, by its attorneys and pursuant to Sections 1.415 and 1.420(d) of the Commission's Rules, hereby submits its comments and a counterproposal in response to the Mass Media Bureau's Notice of Proposed Rule Making ("Notice") in MM Docket 92-204, DA 92-1152, released September 4, 1992. In that Notice, the Commission proposed the substitution of Channel 230B1 for Channel 230A at Lincoln, Illinois.

I. Proposal

WJEZ presently operates on Channel 276A, but has been ordered to change to Channel 229A, at its present transmitter location, by the Report and Order in MM Docket No. 90-137, RM-7106.<sup>1/</sup> Livingston proposes to change WJEZ's community of

<sup>1/</sup> WJEZ has a pending application for the frequency change, a transmitter site change, and an increase in power to 6 kW.

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license to Chenoa, Illinois and to upgrade the station to a Class B1 facility. Livingston's proposal is mutually exclusive with the proposed substitution of Channel 230B1 for Channel 230A at Lincoln. Specifically, Livingston proposes the following changes to the table of allotments:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Chenoa, Illinois	-----	229B1
Pontiac, Illinois	229A	-----

This counterproposal would provide Chenoa with that community's first local broadcast service, while enabling WJEZ to substantially increase its service area. As Chenoa was incorporated in 1852 and is listed in the U.S. Census, Chenoa is clearly a community for allotment purposes.

1. From the proposed reference coordinates, a station operating on Channel 229B1 at Chenoa would meet FCC minimum spacing and signal coverage requirements as set forth in Sections 73.207 and 73.315, respectively, of the Commission's Rules. See Exhibit 1 (Engineering Statement). If Channel 229B1 is allotted to Chenoa, Livingston intends to file an application for permission to improve the facilities of WJEZ(FM) and to promptly construct the Class B1 facility.

II. Livingston's Proposal Will Provide A  
Preferential Arrangement of Allotments

2. In its Report and Order, In re Amendment of the  
Commission's Rules Regarding Modification of FM and TV  
Authorizations to Specify a New Community of License, 4 FCC Rcd

4870 (1989) (hereinafter "Community of License"), the Commission adopted a procedure whereby licensees and permittees of FM broadcast authorizations could request a new community of license in rule making proceedings to amend the FM table of allotments without subjecting the licensee or permittee to the risk of losing its authorization to competing applicants. Procedurally, the Commission stated that it would:

compare the proposed allotment plan to the existing state of allotments for the communities involved. If adoption of the proposed allotment plan would result in a net service benefit for the communities involved (that is if the plan would result in a preferential arrangement of allotments), we will adopt the proposal. We conclude that the best way to ensure a preferential arrangement of allotments is to apply the relevant FM or television allotment priorities and policies.

Community of License, 4 FCC Rcd at 4873. Hence, under the circumstances presented in the instant case, the Commission's approach is simply to look at the alternatives presented and choose that which provides the greater public benefit under the FM priority rules. See In re Amendment of Section 73.202(b) (Brawley and El Centro, California), 4 FCC Rcd 8334 (M.M. Bur. 1989).

3. The allotment of Channel 229B1 to Chenoa would significantly increase the number of listeners served by WJEZ(FM). WJEZ currently serves 23,446 persons. The allotment of Channel 229B1 to Chenoa would permit operation with a 25 kW effective radiated power ("ERP") at 1000 meters above average terrain. From the proposed reference point, WJEZ's 1 mV/m contour would cover 132,237 persons. The requested upgrade would

thus result in a net service gain of 108,791 persons over its present facilities. Clearly, the provision of the first local service to Chenoa has more public interest benefits than the present distribution of broadcast services.<sup>2/</sup>

4. This proposal is also favored over the proposed Lincoln upgrade. In Revision of FM Assignment Policies and Procedures, 90 F.C.C. 2d 88 (1982), the Commission enunciated the following allotment priorities for FM service:

- (1) First full time aural service
- (2) Second full time aural service
- (3) First local service
- (4) Other public interest matters.

The Commission gives equal weight to factors (2) and (3). Id. Pontiac is currently served by AM station WPOK as well as by WJEZ. Under Livingston's proposal, therefore, Pontiac would retain a local transmission service while Chenoa would gain a first local transmission service. On the other hand, the Lincoln proposal would merely result in the upgrade of an existing station. Under the Commission's allotment priorities, an upgrade does not provide as great a public service benefit as that of a first local service. See, e.g., Corinth, Hadley and Queensbury, New York, 5 FCC Rcd 3243 (1990). Accordingly, Livingston's

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<sup>2/</sup> In the event that the Commission decides not to allocate Channel 229B1 to Chenoa, Livingston requests the substitution of Channel 229B1 for Channel 229A at Pontiac, and the modification of WJEZ's license to specify operation on the new channel. Livingston commits to constructing this facility at Pontiac, but believes that the move to Chenoa better serves the public interest.

proposal to allot Channel 229B1 to Chenoa and change WJEZ's community of license is clearly favored over the Lincoln proposal under the FM allotment priorities.

### III. Conclusion

5. With regard to changes in community of license, the Commission has clearly stated its intention to adopt proposals for a change in community of license where the plan would result in a preferential arrangement of allotments. Community of License, 4 FCC Rcd at 4873. As explained above, Pontiac is currently served by an AM station, whereas Chenoa has no local broadcast service whatsoever. Hence, the public interest favors the provision of first local service to Chenoa. Furthermore, since the allocation of Channel 229B1 at Chenoa is clearly superior to the Lincoln upgrade proposal under the FM allotment priorities and would better serve the purposes of Section 307(b) of the Communications Act, Livingston respectfully requests that the Commission adopt the counterproposal set forth herein.

Respectfully submitted,

LIVINGSTON COUNTY BROADCASTERS, INC.

By 

David D. Oxenford  
Matthew P. Zinn

Its Attorneys

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Date: October 26, 1992

This Engineering Study is in support of a Petition to Amend the FM Table of Allotments, 73.202(b), to Substitute Channel 229B1 to Chenoa, Illinois for Channel 229A at Pontiac Illinois, and to modify the license of WJEZ (FM), Pontiac, Illinois to specify operations on the new channel with a new city of license. Channel 229B1 can be assigned to Chenoa without requiring any other changes in the Table of Allotments.

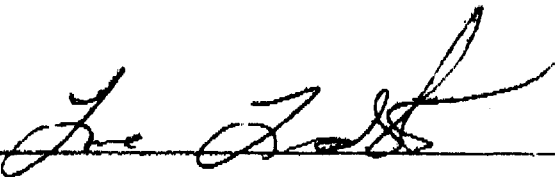
WJEZ is currently operating on Channel 276A with 3.0 kW. at 56 meters above average terrain, but is ordered to Channel 229A at its present transmitter location by Docket 90-137, RM-7106. An application for the change in channel, and for a change in transmitter sites and to increase power to 6 kW is presently pending.

The 1990 Census reports the population of Chenoa, Illinois, as 1732 persons, and it is located in McLean County (pop. 129,180). There are no FM channels allocated for use at Chenoa, and there are no AM or FM stations presently assigned.

Livingston County Broadcasters, Inc. has determined a location which will permit WJEZ to upgrade its facility from a Class A to a Class B1 while meeting the spacing requirements of 73.207. A location northeast of Chenoa was determined to be suitable and meets the spacing requirements of 73.207. The geographic coordinates of the sample restricted site are 40 45'00" North, 88 40'00" West, which is approximately 3.2 kilometers east-north-east of Chenoa. A substantial area in the vicinity will be available for the construction of the station, and which will meet the requirements of 73.315 with regard to the placement of a minimum of

70 dBu. signal over the community of license.

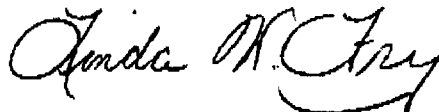
It will be noted from Figure 1 that the allotment of Channel 229B1 to Chenoa is in conflict with a petition for rulemaking in Docket No. 92-204 to substitute Channel 230B1 for Channel 230A at Lincoln, Illinois, and to reserve that channel for use by WESZ. The allotment of Channel 229B1 to Chenoa, Illinois, would permit operation with an ERP of 25 kW at 100 metres above average terrain, and from the above reference point would encompass a population of 132,237 persons within its 1 mV/m contour. WJEZ presently serves 23,446 persons. The B1 upgrade would thus result in a net service gain of 108,791 persons over its present facilities.



Lane Lindstrom

Chief Engineer

Livingston County Broadcasters, Inc.



PONTIAC, IL

October 26, 1992

## FM Spacing study

Title: WJEZ B1 CHENOA NEW  
 Channel 229B1 ( 93.7 MHz)  
 Database: DW 10/21/92

Latitude: 40-45-00  
 Longitude: 88-40-00  
 Safety zones: 45 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License	St	FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)
WYDS	CP	HOWARD G BILL	226A	60A	39-47-09	194.5	110.6	48
DECATUR	IL	BPMH-920428IC	93.1	100	88-59-28	14.3	62.56	CLEAR
CP Granted 07/02/92 per FCC release #21417 dated 07/09/92; Call Granted 02/01/91 per FCC release #151 dated 02/01/91								
WKZW	LIC	MIDWEST TELEVISION INCOR	227B	40	40-38-07	260.4	74.80	71
PEORIA	IL	BLH-810206AI	93.3	168	89-32-19	79.9	3.795	CLOSE
Affiliated with WMBO(AM)								
NEW	APP	U.S.A. DIGITAL RADIO, LP	228	6	40-06-26	150.2	82.18	
URBANA	IL	920810MF	93.5	41	88-11-12	330.5		
Received per FCC release #15333 dated 08/21/92; EXPERIMENTAL FM STATION								
WJTW	LIC	NEW HORIZONS COMMUNICATI	228A	3	41-32-18	28.5	97.92	96
JOLIET	IL		93.8	79	88-05-35	208.9	3.917	CLOSE
Was WJFP 12/16/85								
WITT	LIC	ILLINI BROADCASTING INCO	228A	3	39-47-58	163.0	110.3	96
TUSCOLA	IL	BLH-860721KC	93.5	45	88-17-20	343.3	14.33	CLOSE
WJEZ	ORD	LIVINGSTON CTY BROADCAST	229A	3	40-49-04	340.8	7.970	143
PONTIAC	IL	BPMH-920421IF	93.7	140	88-41-52	160.8	-135	SHORT
DOC-90-137; ORDERED FROM 276A; TDF; Affiliated with WPOK(AM)								
WEKZ-FM	LIC	GREEN COUNTY BROADCASTIN	229B	36.3	42-34-35	337.6	220.1	211
MONROE	WI		93.7	177	89-41-35	156.9	9.125	CLOSE
Affiliated with WEKZ(AM)								
PRM		CLASS CHANGE FROM A PROP	230B1		40-01-11	213.8	97.51	114
LINCOLN	IL	DOC-92-204	93.9		89-18-16	33.4	-16.5	SHORT
PRM adopted 08/19/92, released 09/04/92; RM-8058; SITE RESTRICTION 9.4 MI S								
WESZ	ORD	L & M BROADCASTING COMPA	230A		40-02-00	215.5	97.66	96
LINCOLN	IL		93.9		89-20-00	35.1	1.658	CLOSE
Deletion proposed; DOC-90-523; RM-7495; ORDERED FROM 261A; Was WLRX 06/01/86								
PRM		CLASS CHANGE TO B1 PROPO	230A		40-02-00	215.5	97.66	96
LINCOLN	IL	DOC-92-204	93.9		89-20-00	35.1	1.658	CLOSE
Deletion proposed; PRM adopted 08/19/92, released 09/04/92; RM-8058								
WLIT-FM	LIC	WLIT INC SUB 19 INCORPOR	230B	4	41-52-44	34.1	152.2	143
CHICAGO	IL	BLH-830301AG	93.9	482	87-38-10	214.8	7.198	CLOSE
Was WLAK 01/16/89								
WGFA-FM	LIC	IROQUOIS COUNTY BROADCAST	231B	26	40-47-48	85.8	77.30	71
WATSEKA	IL	BLH-860902KC	94.1	112BT	87-45-11	266.4	6.305	CLOSE
Affiliated with WGFA(AM)								



PONTIAC, IL

October 26, 1992

FM Spacing study

Title: WJEZ 91 CHENOA NEW  
Channel 229B1 ( 93.7 MHz)

Latitude: 40-45-00  
Longitude: 88-40-00

Call	Auth Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License	St FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)
WJEZ	LIC PEORIA SATELLITE RADIO C	232A	2.90	40-49-48	277.5	70.76	48
CHILLICOTHE	IL BLH-830118AA	94.3	91	89-29-54	97.0	22.76	CLEAR
Was WBZM 03/08/91 per FCC release #153 dated 03/08/91							
WJMK	LIC INFINITY BCO CORP OF ILL	282B	4.10	41-52-44	34.1	152.2	17
CHICAGO	IL BLH-870306KJ	104.3	480	87-38-10	214.8	135.2	CLEAR
Affiliated with WJJD(AM)							
WFMB-FM	LIC NEUHOF BROADCASTING COR	283B	43.4	39-45-36	217.5	138.2	17
SPRINGFIELD	IL BLH-830815AC	104.5	131	89-39-05	36.9	121.2	CLEAR
Was WFMB 12/18/91 per FCC release #173 dated 12/20/91; Affiliated with WFMB(AM)							

### FACTS ON CHENOA, ILLINOIS

Chenoa was incorporated in 1852 as a city.

Chenoa is governed under the commissioner system with 1 mayor and 4 commissioners.

The school system is a unit district with its own superintendent and elected school board.

The city has its own water and sewer treatment plants.

Chenoa has a 24-hour police department and a volunteer fire department and a volunteer ambulance service.

Chenoa has the following organizations:

- Chamber of Commerce
- Rotary
- Chenoa Women's Club
- Service Sorority
- VFW and Auxiliary
- American Legion and Auxiliary
- Chenoa Boosters Club
- Boy Scouts
- Art & Travel Club
- Garden Club
- Men's & Women's Clubs through Chenoa churches

Chenoa is served by the following churches:

- Chenoa Baptist Church
- St. Joseph's Catholic Church
- Chenoa Church of God
- Trinity Lutheran Church
- Presbyterian Church of Chenoa
- United Methodist Church

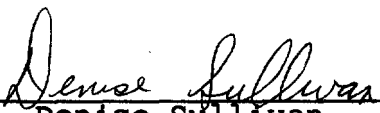
CERTIFICATE OF SERVICE

I, Denise Sullivan, a secretary in the law firm of Fisher, Wayland, Cooper and Leader, hereby certify that I have this 26th day of October, 1992, sent a copy of the foregoing "COMMENTS AND COUNTERPROPOSAL" by first class United States mail, postage prepaid, to the following:

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\_\_\_\_\_  
Denise Sullivan

\*Hand Delivered